



## WYOMING LEGISLATIVE SERVICE OFFICE

# Memorandum

**DATE** May 19, 2022

**TO** Joint Appropriations Committee

**FROM** Tamara Rivale, Legislative Counsel

**SUBJECT** Broad Overview of Statutory Structure of Gaming in Wyoming

This overview provides statutory provisions, terminology, and other background related to the gaming activities that are regulated by the Wyoming Gaming Commission (Commission). The gaming activities discussed herein include skill-based amusement games, online sports wagering, pari-mutuel events, bingo, and pull tab games.

The Joint Appropriation Committee's approved interim topic priority No. 5, Gaming Commission, provides:

Working with the Joint Revenue Committee, the Committee will review gaming and the operations of the Gaming Commission. This topic will include a broad overview of gaming in Wyoming and issues that need to be clarified as the result of the passage of bills authorizing skill-based amusement games and on-line sports wagering. The Committee will also consider the appropriateness and feasibility of housing the Gaming Commission within the Department of Revenue.<sup>1</sup>

### **Skill-based Amusement Games**

Under Wyoming Statutes, skill-based amusement games are games played in exchange for consideration of cash, credit, or other thing of value on a fixed, commercial electrical gaming device in which the bona fide skill of the player, determined by an individual's level of strategy and skill, rather than an inherent element of chance, is the primary factor in determining the outcome and for which the player may be awarded a prize or other thing of value for a successful outcome.<sup>2</sup> The definition of skill-based amusement game excludes any game played for prizes of nominal value as provided by rule of the Commission.

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<sup>1</sup> The Joint Revenue Committee's topic No. 5 similarly provides, "The Committee will review gaming and the operations of the Gaming Commission. This topic will include a broad overview of gaming in Wyoming and issues that need to be clarified as the result of the passage of bills authorizing skill-based amusement games and on-line sports wagering. This topic will also include consideration of whether it would be appropriate to house the Gaming Commission within the Department of Revenue which is reportedly the structure used in several other states."

<sup>2</sup> W.S. 11-25-102(a)(xix).

Statute authorizes the Commission to issue the following permits, licenses, and decals for skill-based amusement gaming as follows:

- Permits to qualifying operators to have skill-based amusement games available for play in the operator's establishment.<sup>3</sup> Operators are persons who possess and operate an establishment, i.e., a single physical place of business.<sup>4</sup>
- Licenses to vendors who possess and distribute skill-based amusement games.<sup>5</sup> Vendors are persons who own and distribute a skill-based amusement game to an operator for profit.<sup>6</sup>
- Decals that identify the vendor of the game for approved skill-based amusement games.<sup>7</sup>

### ***Skill-based Amusement Games: Legislative History in Brief***

During the 2020 Budget Session, the Legislature authorized the skill-based amusement games that were currently operating in the state and that met other specified requirements to continue to operate until June 30, 2021. The section allowing temporary operation of these games was adopted through a non-codified section of law.<sup>8</sup> The enacting legislation also included codified law reconstituting the Wyoming Pari-Mutuel Commission as the Wyoming Gaming Commission.

The following year during the 2021 General Session, the Legislature repealed the sunset date for the operation of existing skill-based games and authorized the operation of any skill-based amusement games that met the requirements of law.<sup>9</sup> The enacted legislation did not limit the operation to only those skill-based amusement games that were in operation prior to June 30, 2021.<sup>10</sup> According to a letter from Governor Mark Gordon to the Wyoming Senate, opinion among legislators differed as to whether the Legislature intended to allow for operation of *new* skill-based amusement games.<sup>11</sup>

To further confound questions of legislative intent, the 2021 law inadvertently repealed the codified provisions of the 2020 law that reconstituted the Wyoming Pari-Mutuel Commission as the Wyoming Gaming Commission and related provisions. Earlier this year during the 2022 Budget Session, the Legislature passed Senate File 7, Wyoming gaming commission-scrivener error correction, which corrected the inadvertent repeal.<sup>12</sup> As noted by the Governor in his letter to the Wyoming Senate, the 2022 legislation did not address the expansion of skill-based amusement games.

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<sup>3</sup> W.S. 11-25-304(a)(i).

<sup>4</sup> W.S. 11-25-102(a)(xvi) and (xvii).

<sup>5</sup> W.S. 11-25-304(a)(ii).

<sup>6</sup> W.S. 11-25-102(a)(xx).

<sup>7</sup> W.S. 11-25-304(b).

<sup>8</sup> 2020 Wyo. Sess. Laws, ch. 114, Sec. 1.

<sup>9</sup> 2021 Wyo. Sess. Laws, ch. 109.

<sup>10</sup> See W.S. 11-25-301(b).

<sup>11</sup> See Letter from Mark Gordon, Governor, to Dan Dockstader, Senate President (March 10, 2022) available at: <https://drive.google.com/file/d/14Pyr2EnDuabPBQk81Bm4UuOM5ocf4xXH/view>.

<sup>12</sup> 2022 Wyo. Sess. Laws, ch. 109.

The expansion or allowance of new skill-based gaming in the state and legislative intent was a topic of discussion during the Joint Revenue Committee's first 2022 interim meeting last month.<sup>13</sup> In addition, testimony from the public during the meeting raised the issue of counties' role in approving or limiting gaming activities, including new skill-based gaming operation and certain pari-mutuel events.

## Online Sports Wagering

Under Wyoming Statutes, online sports wagering is defined as wagering conducted by a sports wagering operator through a sports wagering account over the internet by use of a computer, digital platform, or mobile application on a mobile device, any of which uses communications technology to accept sports wagers, or any system or method of electronic sports wagering approved by Commission rules.<sup>14</sup> The definition excludes wagering conducted from physical locations.

Statute authorizes the Commission to issue the following permits and licenses related to online sports wagering:

- Sports wagering operator permits to qualified gaming entities.<sup>15</sup> Qualified gaming entities are those entities that offer online sports wagering through computers, digital platforms or mobile applications in not less than three jurisdictions in the United States pursuant to a state regulatory structure.<sup>16</sup>
- Sports wagering vendor permits to qualifying vendors that provide services to sports wagering operators.<sup>17</sup> Vendor services include services that the sports wagering operator uses to accept online sports wagers, including geolocation services, know your customer services, payment processors, and data providers.<sup>18</sup>

## Pari-Mutuel Events

The Commission regulates pari-mutuel events in the state. Pari-mutuel events include horse racing—including quarter horse, thoroughbred, or other approved races—harness racing, cutter racing, chariot racing, chuckwagon racing, professional roping, rodeo events, and certain simulcasting.<sup>19</sup> As may be authorized by the Commission, pari-mutuel events also include events that have previously occurred if utilizing an electronic system or device that affords an opportunity for the exercise of skill or judgment where the outcome is not completely controlled by chance alone.<sup>20</sup>

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<sup>13</sup> See April 27, 2022 Joint Revenue Committee meeting video, available to watch at: <https://www.youtube.com/watch?v=aJCouRVJKys>.

<sup>14</sup> W.S. 9-24-101(a)(vi).

<sup>15</sup> W.S. 9-24-103(b).

<sup>16</sup> W.S. 9-24-101(a)(x).

<sup>17</sup> W.S. 9-24-103(d).

<sup>18</sup> W.S. 9-24-101(a)(xv).

<sup>19</sup> W.S. 11-25-102(a)(v).

<sup>20</sup> *Id.*

The Commission may issue pari-mutuel permits for a specified period not to exceed three years from the date of issuance to any Wyoming county, city, incorporated town, county fair board or any corporation or association approved by the Board of County Commissioners and which provides a bond acceptable to the Commission.<sup>21</sup> Any person who is engaged in or employed by those engaged in a pari-mutuel event racing or operating a race meeting and those who operate concessions under authority from any permittee must be licensed by the Commission.<sup>22</sup>

### ***Pari-Mutuel Events: Simulcasting and Historic Horse Racing***

Simulcasting is the sale of pari-mutuel pools electronically transmitted live or historic on interstate or intrastate pari-mutuel events as prescribed by the Commission.<sup>23</sup> The Commission may issue simulcast permits only to applicants authorized to conduct a pari-mutuel event other than simulcasting. Simulcasting may be conducted off the permitted premises only if the board of county commissioners of the county in which such simulcasting will be conducted grants its approval.<sup>24</sup> Additionally, no simulcasting may be conducted within 100 miles of any premises permitted by the Commission unless the permittee approves the simulcasting.<sup>25</sup>

### ***Pari-Mutuel Events: Advance Deposit Wagering***

An advance deposit pari-mutuel wager is a wager in which a person who has opened an account in advance with a licensee can place wagers from this account in person, by telephone, or other electronic means. Subject to specified conditions, the Commission may authorize advance deposit pari-mutuel wagering at any premise where a pari-mutuel event is authorized.<sup>26</sup>

### **Bingo and Pull Tab Games**

Wyoming Statutes authorize charitable and nonprofit organizations to conduct bingo games and sell pull tab games.<sup>27</sup> Only those organizations that have been in existence in the state for at least three years may conduct bingo games and pull tab games.<sup>28</sup> Commencing July 1, 2020, statute charged the Commission to issue no-fee licenses to qualifying charitable and nonprofit organizations and required those licensees to file annual reports with the Commission.<sup>29</sup>

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<sup>21</sup> W.S. 11-25-201(a).

<sup>22</sup> Wyo. Code R. Wyoming Gaming Commission, Pari-Mutuel Commission, ch. 7.

<sup>23</sup> W.S. 11-25-102(a)(vii).

<sup>24</sup> The Wyoming 6th Judicial Court recently opined that a county lacks the implied authority to revoke a prior resolution to approve "off-track betting" or simulcasting. *See The Sheridan Press Judge rules commissioners lacked authority for resolution* (April 5, 2022), available at: [https://www.thesheridanpress.com/news/regional-news/judge-rules-commissioners-lacked-authority-for-resolution/article\\_c7149c80-b509-11ec-8176-f7698ef22d3e.html](https://www.thesheridanpress.com/news/regional-news/judge-rules-commissioners-lacked-authority-for-resolution/article_c7149c80-b509-11ec-8176-f7698ef22d3e.html).

<sup>25</sup> W.S. 11-25-102(a)(vii).

<sup>26</sup> W.S. 11-25-201(k).

<sup>27</sup> W.S. 6-7-101(a)(iii)(D).

<sup>28</sup> *Id.*

<sup>29</sup> W.S. 11-25-104(n).